knowledge of infirmities in the note, where the bank acts wholly through a discount committee of which the cashier is not a member, while he acts wholly for himself.

The result would have been otherwise had the cashier himself discounted the note, with knowledge of its infirmities, notwithstanding the general rule that the principal is not bound by the knowledge of his agent, when the latter represents adverse interests. *Atlantic etc. Mills* v. *Indian Orchard Mills*, 147 Mass. 268; note 36 Am. Dec. 194.

NEW TRIAL FOR IMPROPER REMARKS OF PROSECUTING ATTORNEY.—Harsh and unjust statements of a district attorney, not founded upon evidence, but which are wholly unsupported declarations, persisted in after repeated objections, the right thereto being sustained by the court, when united with threats of popular denunciation and an attempt to frighten the jury by declaring that they would commit the unpardonable sin if they found for the defendant, are held in *People* v. *Fielding* (N. Y.) 46 L. R. A. 641, to be sufficient ground for reversal of a conviction. An extensive note to this case marshals the decisions on the question of reversal of a conviction because of unfair or irrelevant arguments or statements of facts by a prosecuting attorney.

CRUELTY TO ANIMALS.—The accused shot and instantly killed a dog. *Held*, That the purpose of the statute prohibiting cruelty to animals was not intended to punish invasions of the right of property in the animal subjected to the cruelty, but to prevent the infliction of unnecessary suffering upon the animal itself, and defendant's conviction could not be sustained. *Horton* v. *State* (Ala.) 27 South. 468. "Otherwise," as the court says, "he who kills his pig or ox for the market would fall within the letter of the law, and, no exception being made in the statute as to the purpose of the killing, we must eat no more meat whether 'it maketh our brother to offend' or not." *Com.* v. *Lewis*, 140 Pa. St. 261, 21 Atl. 396, 11 L. R. A. 522; Bishop, Stat. Crimes, 1110, 1119.

REGISTRY OF DEEDS—HOW FAR NOTICE.—That registry of deeds and other instruments does not constitute notice of their existence "to all the world," as frequently expressed, but is notice only so far as necessary to protect the grantee or beneficiary in the recorded instrument, against competing liens on, or transfers of, the property affected by the instrument, is well illustrated by the case of *Traders' Insurance Co.* v. *Cassell* (Ind. App.), 56 N. E. 259. In that case the insured, after a loss by fire, endeavored to avoid a forfeiture of his policy, in which the execution of mortgages on the property was declared a ground of forfeiture, by fixing upon the company constructive notice of the mortgage by reason of its registry. It was properly held that registry was not notice to the company. See 3 Va. Law Reg. 468; *Lynchburg etc. Co.* v. *Fellers*, 4 Va. Law Reg. 514, 519.

UNBORN CHILD—PRENATAL STATUS—INJURY BEFORE BIRTH.—The plaintiff was injured before birth by the alleged negligence of the defendants, in the operation of an elevator in a hospital owned or controlled by them, to which hospital his mother had gone shortly before his birth for her *accouchement*. By reason of injury to the mother, plaintiff's limbs at birth were shrunken and atrophied,

and he was otherwise deformed. In an action by the infant to recover damages it was *Held* that there could be no recovery. *Allaire* v. *St. Luke's Hospital* (Ill.) 56 N. E. 638.

This decision is in accordance with the little authority there is on the subject of the prenatal status of an infant. The ground upon which actions for prenatal injuries are disallowed is that the unborn child is a part of the mother—*pars viscerum matris*. As the court well says, if an action were permissible by the infant in such case, the same principle would permit an action against the mother herself for prenatal negligence. Boggs, J., dissented, and endeavored to distinguish the case from the two opposing cases—*Dietrich* v. *Inhabitants*, 138 Mass. 14, and *Walker* v. *Railway Co.*, 28 L. R. (Ireland) 69—on the ground that in the principal case the hospital authorities, knowing of the condition of the mother, and having invited her to undergo her lying-in at the hospital, owed a special duty not only to the mother but to the child. The ruling of the majority seems the sounder doctrine.

A suit in equity may be maintained, however, by a *prochein ami*, to protect the property interests of an unborn infant. Story, Eq. Pl. (10th ed.), ec. 59 (n).

LANDLORD AND TENANT—DESTRUCTION OF PREMISES—RECOVERY OF UNEARNED RENT PAID IN ADVANCE.—Plaintiff leased of the defendant premises for a certain term at an agreed rental, more than one-half of which was by the terms of the lease payable in advance, and was so paid. The lease provided that in case of destruction of the premises by fire, the rent should be paid up to the time of the destruction and the lease should cease. The premises were so destroyed shortly after plaintiff took possession. In an action to recover the unearned rent paid in advance, it was *Held*, That the plaintiff could not recover—two of the five judges dissenting.—*Werner* v. *Padula*, 63 N. Y. Supp. 68.

The construction placed by the court upon the contract was that under it, the first installment being due in advance, the tenant took the risk of fire so far as that portion of the rent was concerned; that the language of the lease meant that no further payments could be required in case of destruction of the premises, and not that any part of the advance payment should be returned. The construction seems extremely harsh.

INFANTS' CONTRACTS—FRAUDULENT REPRESENTATION OF AGE—TROVER—TORT.—Defendant, an infant, purchased goods from the plaintiff, falsely representing that he was of age. Upon failure to pay, plaintiff brought an action of trover for the goods. *Held*, That the action could not be maintained. *Slayton* v. *Barry* (Mass.), 56 N. E. 574.

The decision is in accordance with the decided weight of authority, and is sound on principle.

Where the real injury is a breach of contract the infant's liability is not altered by bringing a tort action. The inquiry in such cases is not as to the form of the action, but the substantial nature of the wrong.

If the suit be in contract, infancy may be pleaded, notwithstanding credit was extended on the faith of a false statement as to his age. Otherwise, a mere failure to disclose his infancy—whereby he impliedly affirms that he is of full legal capacity to enter into the contract—would itself be fraudulent; with the result